



The Salisbury Planning Board held its regular meeting Tuesday, March 23, 2010, in the City Council Chamber at Salisbury City Hall at 4 p.m. with the following being present and absent:

PRESENT: Karen Alexander, Mark Beymer, Robert Cockerl, Richard Huffman, Valerie Stewart, Albert Stout, Bill Wagoner and Diane Young

ABSENT: Tommy Hairston

STAFF: Dan Mikkelson, Preston Mitchell, Diana Moghrabi, David Phillips and Patrick Ritchie

This meeting was digitally recorded for *Access 16* television by Jason Parks.

Robert Cockerl called the meeting to order and offered an invocation. The Planning Board adopted the agenda as submitted. The minutes of the March 9, 2010 meeting will be approved at the next meeting.

NEW BUSINESS

A. District Map Amendment

- Staff Presentation
- Courtesy Hearing
- Board Discussion
- Statement of Consistency
- Recommendation to City Council

Preston Mitchell made a staff presentation.

The written report was included in the Planning Board agenda materials that were posted at <http://www.salisburync.gov/planningboard/pbfrontpage.html>.

CD-01-2010

Bishop Peter Jugis, Charlotte Catholic Diocese

Unnumbered Lumen Christi Lane

Tax Map - Parcel(s): 327-129

Approximately 4.2 acres of 13.5 acres of Parcel 2 of the CD

Located along the east side of the Lumen Christi Lane cul-de-sac just south of the Colonial Pipeline easement

Request to amend the Land Development Ordinance and District Map by rezoning approximately 13.5 acres from GENERAL RESIDENTIAL (GR-6) to RESIDENTIAL MIXED-USE (RMX) and amending the existing Conditional District (CD) Overlay (Sacred Heart Church & School) to permit the development of Good Shepherd Manor, a 54-unit Senior Living Community.

The petition proposes to change the existing GR-6 base district to RMX base district (this parcel only), preliminarily subdivide this parcel, and amend the entire Conditional District Overlay, which was originally adopted as CD-7-02-2008-15, to permit the development of a 54-unit multi-family development.

This portion of the Sacred Heart CD Overlay is undeveloped and located on the east side of the newly-constructed cul-de-sac at the terminus of Lumen Christi Lane. This portion of the property is partially wooded and drops off steeply to the creek between the subject site and Hidden Creek subdivision. It is bound by the Lumen Christi Lane cul-de-sac on the west, the Colonial Pipeline and easement on the north, the steep draw and creek to the east, and undeveloped available land to the south.

Staff recommends that the following uses be removed from the list of permitted uses since the intent of the original CD Overlay was to encourage and support light, neighborhood-serving commercial and services in the adjacent NMX section of the planned CD that abuts Jake Alexander Boulevard.

Proposed Prohibited Uses

- ATM
- Banks & Financial Services
- Business Support Services
- Drive-Thru Service
- Laundry Service
- Medical Clinic
- Post Office
- Professional Services
- General Retail (any square footage)
- Restaurant
- Recreation Facilities, Outdoor / Indoor
- Neighborhood Manufacturing
- Parking Lot (primary use)

Proposed Permitted Uses

- All Residential Uses
- Live-Work
- Child / Adult Day Care Home
- Community Service Organization
- Group Care Facility
- Studio
- Cultural Community Facility
- Meeting Facility
- Cemetery
- Public Safety

- Schools / Religious Institution
- Utilities

Alternative Design Available to CD

- Industrial Standards of Ch. 2
- **Bldg. Orientation to Street / Rec. Open Space** (page 5 of staff report)
- Bldg. Materials
- **Bldg. Design Standards**
- Bldg. Dimensional Standards
- Street Cross Sections
- Street Connectivity & Stub Standards
- **Parking**
- Private Lighting

This plan requests elimination of the parking lot connection requirement due to topographic constraints and existing site conditions (i.e. Colonial Pipeline easement).

In lieu of fronting a street or public open space, this plan proposes to have the primary building length (and primary entrance) front the parking area and private recreational open space.

The Conditional District petition and associated Master Plan were first reviewed by the city's Technical Review Committee (TRC) on February 18, 2010. Staff and other reviewing agencies discussed the proposal with the petitioner's representative. Comments were generated and delivered to the petitioner for their consideration. All required TRC comments were appropriately addressed.

Mr. Mitchell read the *Vision Statement on Housing* and Policy N-19 of the 2020 Comprehensive Plan.

2010-2014 Consolidated Plan

- Elderly households account for 60% of low and moderate income owner households, and only 17% of renter households (35% of total low and moderate income households);
- Among elderly renters, both housing problems and cost burden are more frequent for households in the very low income range (55%) and in the low income range (57%);
- Among elderly owners in the very low income range, housing problems and cost burden are equally high (49.7%), although not to the extent seen for elderly renter households;
- Among all low and moderate income elderly households, 49.6% of renters and 30% of owners have housing problems.

This equates to at least 687 elderly households with a housing need.

- *Fleming Heights* = 32 units
- *Yadkin House* = 67 units

- *Salisbury Housing Authority: 138 units reserved for senior/elderly*

Staff recommends that the petition is not consistent with the Vision 2020 Plan because high-density residences (apartments) need to be located within close proximity to existing or planned CMX or DMX nodes. In addition, there is concern with placing senior high-density housing away from services and transportation – concern with alienation. However, staff recommends consistency with meeting the needs of the Consolidated Plan based on the sheer number of senior housing units that are needed in our community. Staff recommends approval of the amendment based on the developer's need for certain (minimal) topographic features, design of the site and building orientation, and proximity to Sacred Heart church and school.

TRC voted unanimously in favor of recommending provisional approval, subject to:

- Addressing all technical comments.
- Providing a 4-foot gravel (or similar material) trail from this site alongside the Sacred Heart driveway up to the Church and School.

Regarding their portion of the greenway trail that was to be constructed along the creek as part of Phase II–Sacred Heart requests not to have that requirement due to constraints getting to the trail from the development and based on the senior housing use. Staff is recommending a 4-foot trail be constructed along the Sacred Heart driveway leading up to the cemetery and continues to the church.

Petitioner

Tracy Parrott with Summit Consulting represented the Roman Catholic Diocese of Charlotte Housing Corporation who is proposing this project. He described the building interior, parking, access, and elevations.

They do not think porches need to be larger than 6 feet.

Gray Stout Architect for Sacred Heart Catholic Church and the Roman Catholic Diocese of Charlotte Housing Corporation addressed the issue of the proposed trail from the Good Shepherd Manor to the church. The church is asking that this be deferred to a later phase and not be made a condition for this phase of the project.

They believe the proposed trail to be a bit premature due to the possibilities of other site changes or improvements in the future, as well as the cost of doing the trail right after the construction of the church and in view of the current economic conditions. There are some drainage issues, so the church would like to study the design of the trail and provide it at a later time.

There are easements on the east and a proposal to add a west side easement on the property for future connectivity to the greenway system.

Those Speaking in Opposition

NONE

Those Speaking in Favor

Carolyn Osian of 4735 Jack Brown Road is a parishioner at Sacred Heart who is interested in living at the new development for seniors.

Board Discussion

A committee had met this year to form guidelines for porch standards for house and townhouse building types, but did not deal with attached porches that are only accessed from the interior of a home or apartment. What is proposed is a very narrow porch or balcony, even if it is for limited use. The concern centered on the fact that the proposed balconies are only 5 feet deep while the new porch guidelines for homes and townhomes require at least 6 feet; however, it was determined by the Zoning Administrator that these “balconies” do not fall under the minimum depth requirements for front porches.

The two entities (the church and the diocese) are requesting that the original private linear park no longer be required to be built by them as part of the project. However, the easement is going to be there for someone else to build one. If a connection to the greenway plan could be built by City Parks & Recreation, then it could be public. Elevations make it difficult to get to. Sidewalks provide connection within the development. There is a greenway easement recorded on the property. They meet the public open space requirements on the 4.2-acre parcel.

Mark Beymer stated that, “The overarching issue is the RMX zoning.” He suggested sending this to committee for further study.

Albert Stout made a MOTION to send **CD-01-2010** to committee and then report back to the Planning Board. Dick Huffman seconded the motion with 7 members voting AYE. Bill Wagoner voted NAY. (7-1) The committee (Bill Wagoner, Ch; Tommy Hairston, V. Ch.; Mark Beymer) later scheduled a meeting for March 30 at 4 p.m. to meet in the parking lot of City Hall and take a city van over to the site.

B. Text Amendments**TA-05-2010: Marquee Signs**

Chapter 12 (Signs) of the Land Development Ordinance (LDO) currently permits the existence of only one marquee sign in the downtown DMX district. The City is petitioning for a text amendment to change this provision so that other theaters and specific users in the downtown can take advantage of this form of advertising. Even though the Piedmont Players Theatre organization came forward and specifically requested this change for their new Fisher Street Theater, the City recognized that other groups and users may come forward seeking the same change to the sign provisions; therefore, it was necessary for the City to act as the petitioner.

This amendment specifies what uses in the downtown DMX district can erect a marquee sign, how many marquee signs can be erected, as well as the overall size of the sign. Marquees (architectural feature) can be built citywide; the signage is separate.

A joint committee of the Community Appearance Commission (CAC), Historic Preservation Commission (HPC), and the Planning Board convened to discuss marquee signs and a possible amendment to the existing language of the code. Draft language was provided to the Planning Board.

One marquee sign will be permitted per facility subject to the following provisions:

- They will be limited to cultural and community facilities, movie theaters and live performance theaters;
- Signs should be at least 8 feet above the sidewalks (current requirement) but the height shall not exceed the height of the affronting parapet wall;
- The maximum area proposed is 2 square feet per linear feet of building wall.

The Technical Review Committee (TRC) supported the recommendation. It is consistent with the comprehensive plan.

No public comment

Board Discussion

Chapter 12–Signs was not rewritten for the “new” LDO; it has been understood that it would be dealt with at a later time.

Mark Beymer believes this is the right procedure for Salisbury at this time.

Valerie Stewart made the following MOTION: “Planning Board finds and determines that case **LDOTA-05-2010–Marquee Signs** is consistent with the goals, objectives and policies of the Vision 2020 Comprehensive Plan and hereby recommends approval.” Albert Stout seconded the motion with all members voting AYE. (8-0)

C. Special Use Permit

- Swear in those persons presenting evidence
- Evidentiary hearing
- Findings of facts
- Recommendation to City Council

SUP-01-10 Havana Knights
 401 East Innes Street
 TM-010, Parcel-367
 Zoning CMX w/G-EIO

Preston Mitchell reviewed the procedures and David Phillips made a staff presentation after being sworn in. Dunkan Echevarria was also sworn in.

Decision-Making Rules

- The zoning ordinance (LDO) must spell out the standards for granting a Special Use Permit, and those decision-making standards cannot be developed on a case-by-case basis.
- The decision to grant or deny the SUP, or to impose conditions on the approval, must be based solely on the LDO standards.
- The standards must provide sufficient guidance for decision. The applicant, neighbors, and board(s) all need to know what the ordinance requires for approval.

Production of Evidence

- The burden is on the applicant to present sufficient evidence to allow the board(s) to make findings that the required standards will be met.
- The burden is on an opponent to present sufficient evidence that a standard will not be met.
- If insufficient evidence is presented that the required standards will be met, then the SUP must be denied.
- If uncontradicted evidence is presented that all of the standards will be met, then the SUP must be issued.
- If uncontradicted evidence is presented that even one of the general or specific standards will not be met, then the SUP must be denied.
- If there is conflicting evidence, the board(s) decides what the facts are and decides accordingly.

This is zoned Corridor Mixed Use within the East Innes Street Overlay. All adjoining properties are zoned CMX.

Evidentiary Hearing

Duncan Echevarria is hoping to relocate his business from the Fireloft on 113 South Lee Street to this larger stand-alone building. There is no other establishment like his in the area.

He plans to have a wine selection and top-shelf liquor to pair with cigars. He stated that his business meets the new, strict parameters for a cigar bar or cigar lounge: 60% of his sales have to be ABC (liquor) 25% has to be cigar, tobacco products and 15 % “non-kitchen” items.

Mr. Echevarria listed ways his business has been giving back to the community.

There was no other public comment.

The current special use permit continues to run with the property, but could be rescinded by City Council.

Standards for Decision

1. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and

Karen Alexander made a MOTION, seconded by Diane Young that this standard is met. All members agreed. (8-0)

2. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and

Bill Wagoner made a MOTION, seconded by Albert Stout that this standard is met. All members agreed. (8-0)

3. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.

Karen Alexander made a MOTION, seconded by Albert Stout that this standard is met. All members agreed. (8-0)

4. No such facility shall be located within five hundred (500) feet of any lot containing a school.

Mark Beymer made a MOTION, seconded by Dick Huffman that this standard is met. All members agreed. (8-0)

Valerie Stewart made a MOTION to approve SUP 01-2010. All standards have been met. Albert Stout seconded the motion with all members voting AYE. (8-0) This case will proceed to City Council for the April 6 agenda.

OTHER BOARD BUSINESS

The Planning Board and staff thanked Diane Young and Valerie Stewart for their six years each of service on this board. They received certificates of appreciation and Mr. Cockerl received a plaque for his term as the chair, along with staff and board appreciation. Valerie Stewart encouraged others to serve on the board.

New appointments to the Planning Board are: Dick Huffman (second term), Benjamin Lynch, Carl Repsher, Eldridge Williams and Herman Felton, Jr. Council will make one more appointment to the 12-member board.

Preston updated the Planning Board on cases and text amendments previously heard by the Planning Board.

The next Planning Board meeting will be April 13, 2010.

There being no further business to come before the Planning Board the meeting was adjourned at 5:42 p.m.

Robert Cockerl, Chair

Diana Moghrabi, Secretary